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MARKEL AMERICAN INSURANCE COMPANY
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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
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11 LENSRAFTERS, INC.; and EYEXAM OF
CALIFORNIA, INC.,

12 Plaintiffs,
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14 vs.

15 LIBERTY MUTUAL FIRE INSURANCE
COMPANY; EXECUTIVE RISK
SPECIALTY INSURANCE COMPANY;
16 UNITED STATES FIRE INSURANCE
COMPANY; MARKEL AMERICAN
17 INSURANCE COMPANY; and
WESTCHESTER FIRE INSURANCE
18 COMPANY,
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Defendants.
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CASE No. CV-07-2853 SBA

**AMENDED NOTICE OF MOTION TO
DISMISS LENSRAFTERS' SECOND
AND THIRD CLAIMS FOR RELIEF**

Date: January 29, 2008

Time: 1:00 P.M.

Courtroom: 3

Judge: Hon. Sandra B. Armstrong

NOTICE OF MOTION

PLEASE TAKE NOTICE that on January 29, 2007 at 1:00 p.m. in courtroom 3 of the United States District Court for the Northern District of California, located at 1301 Clay Street, 3rd Floor, Oakland, California, Defendant Markel American Insurance Company will move to dismiss the second and third claims for relief in the First Amended Complaint filed by plaintiffs LensCrafters, Inc. and Eyexam of California, Inc.

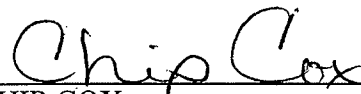
This Motion is brought under Rule 12(b)(6) of the Federal Rules of Civil Procedure on the grounds that plaintiff's second claim for relief: breach of contract re defendants' duty to indemnify and duty to settle, and plaintiffs third claim for relief: tortuous breach of the covenant of good faith and fair dealing, as alleged in plaintiffs' First Amended Complaint, both fail to state a claim upon which relief can be granted.

This motion is based on the Memorandum of Points and Authorities previously filed by Markel, all pleadings and papers on file in this action, and on such further argument and evidence as the Court may consider at the hearing of this motion.

Dated: October 29, 2007

LONG & LEVIT LLP

By


CHIP COX
Attorneys for Defendant
MARKEL AMERICAN
INSURANCE COMPANY

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